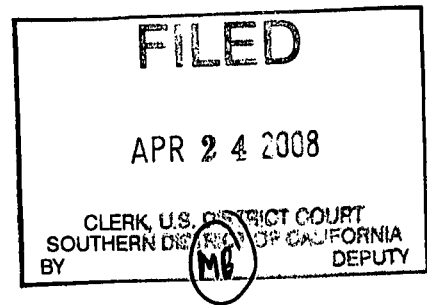


1 KAREN P. HEWITT
 United States Attorney
 2 DOUGLAS KEEHN
 Assistant United States Attorney
 3 California State Bar No. 233686
 United States Attorney's Office
 4 Federal Office Building
 880 Front Street, Room 6293
 5 San Diego, California 92101
 Telephone: (619) 557-6549
 6
 Attorneys for Plaintiff
 7 UNITED STATES OF AMERICA



8
 9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

08CR-1298-H

11 UNITED STATES OF AMERICA,)
)
 12 Plaintiff,)
)
 13 v.)
)
 14 JUAN JOSE RIVERA,)
 aka Pedro Garcia-Martinez,)
 15)
 Defendant.)
 16

Magistrate Case No. 08MJ1132

**STIPULATION OF FACT AND JOINT
 MOTION FOR RELEASE OF
 MATERIAL WITNESS(ES) AND
 ORDER THEREON**

(Pre-Indictment Fast-Track Program)

17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
 18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and
 19 Douglas Keehn, Assistant United States Attorney, and defendant JUAN JOSE RIVERA, aka Pedro
 20 Garcia-Martinez, by and through and with the advice and consent of defense counsel,
 21 Roseline D. Feral, that:

- 22 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
 23 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 24 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
 25 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
 26 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
 27 § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.
 28 //

WDK:psd:4/15/08

NOT IN CUSTODY

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **May 14, 2008**.

6 4. The material witness, Maribel Salazar-Mendoza, in this case:

7 a. Is an alien with no lawful right to enter or remain in the United States;

8 b. Entered or attempted to enter the United States illegally on or about
9 April 11, 2008;

10 c. Was found in a vehicle driven by defendant at the Tecate, California Port of
11 Entry (POE) and that defendant knew or acted in reckless disregard of the fact that she was an alien
12 with no lawful right to enter or remain in the United States;

13 d. Was paying \$1,000 to others to be brought into the United States illegally
14 and/or transported illegally to her destination therein; and,

15 e. May be released and remanded immediately to the Department of Homeland
16 Security for return to her country of origin.

17 5. After the material witnesses are ordered released by the Court pursuant to this
18 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
19 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
20 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

21 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
22 substantive evidence;

23 b. The United States may elicit hearsay testimony from arresting agents
24 regarding any statements made by the material witness(es) provided in discovery, and such testimony
25 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
26 of (an) unavailable witness(es); and,

27 //

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Juan Jose Rivera

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
10 immediate release and remand of the above-named material witness(es) to the Department of
11 Homeland Security for return to her country of origin.

12 It is STIPULATED AND AGREED this date.

13 Respectfully submitted,

14 KAREN P. HEWITT
15 United States Attorney

16 Dated: 4/24/08

17 for Douglas Keehn
18 DOUGLAS KEEHN
19 Assistant United States Attorney

20 Dated: 4/18/08

21 Roseline D. Feral
22 ROSELINE D. FERAL
23 Defense Counsel for RIVERA

24 Dated: 4/15/08

25 Juan Jose Rivera
26 JUAN JOSE RIVERA
27 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated: 4/24/08


United States Magistrate Judge